

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)


REC'D 24 MAY 2004

WIPO PCT

Applicant's or agent's file reference JNR/PG4774	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/01447	International filing date (day/month/year) 03.04.2003	Priority date (day/month/year) 04.04.2002
International Patent Classification (IPC) or both national classification and IPC B65B1/36		
Applicant GLAXO GROUP LIMITED		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 22.10.2003	Date of completion of this report 21.05.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Vigilante, M Telephone No. +31 70 340-2902



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/01447

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-22 as originally filed

Claims, Numbers

1-87 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-39,41-44,46-79,81-86
	No: Claims	1,40,45,80,87
Inventive step (IS)	Yes: Claims	2-39,41-44,46-79,81-86
	No: Claims	1,40,45,80,87
Industrial applicability (IA)	Yes: Claims	2-39,41-44,46-79,81-86
	No: Claims	1,40,45,80,87

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents :

- D1: WO 00 71419 A (WILSON ALAN ANTHONY ;GLAXO GROUP LTD (GB);
FARR PHILLIP WILLIAM (G) 30 November 2000
D2: WO 00 71424 A (WILSON ALAN ANTHONY ;GLAXO GROUP LTD (GB);
PIKE MARCUS EDWARD (GB)) 30 November 2000
D3: US-A-5 549 144 (DWORAK ADAM J ET AL) 27 August 1996

2. The document WO 00 71419 is regarded as being the closest prior art to the subject-matter of independent claims 1,40,45,80,87 and discloses (the references in parentheses applying to this document): a method of loading a container with a defined quantity of product (30) which comprises: closing off a perforation (20) in a perforated plate (10); directing powder (30) into said closed-off perforation by sweeping action of a first director blade (40) spaced from said perforated plate; and transferring the contents of the perforation to said container, further comprising relative rotary motion of the perforated plate and said first director blade.

Thus D1 shows all the features of claim 1 which is therefore not new as defined in the regulations (Rule 64(1)-64(3) PCT).

2.1 A similar novelty objection against present independent claim 1 can be raised on the basis of each of the documents D2 (see the whole document) and D3 (see especially column 2, line 40 - column 5, line 11, figures 1,2,4).

2.2 Documents D1-D3 further discloses the features of independent claims 40, 45, 80 and 87 which are therefore also not new.

3. Although claims 1,40,45,80,87 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ

from each other only with regard to the definition of the subject-matter for which protection is sought. The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, if not impossible, to determine the matter for which protection is sought, and places an undue burden on others seeking to establish the extent of the protection.

Hence, claims 1,40,45,80,87 do not meet the requirements of Article 6 PCT.

4. The combination of the features of dependent claims 2-39,41-44,46-79,81-86 is neither known from, nor rendered obvious by, the available prior art.

5. Independent claims 45,80 and 87 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).